

*Young Israel
Of
Woodmere*

**NON-DISCRIMINATION AND ANTI-HARASSMENT
POLICY & COMPLAINT PROCEDURES**

(including Sexual Harassment, Sexual Abuse/Assault and Stalking)

April 2015

Young Israel of Woodmere

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EXECUTIVE SUMMARY

The following is a brief summary of the Policy. Please read the full Policy for more details, including definitions and examples of discrimination and harassment; complaint reporting procedures and guidelines; and the investigation and resolution processes.

- The Young Israel of Woodmere (“YIW”) prohibits discriminatory practices and harassment of any kind and in any form.
- Complaints may be made to YIW’s Rabbi or President and/or via email to the Investigations Committee at yiwabuseprevention@gmail.com.
- There is no time limit on when a complaint can be made.
- No YIW employee or representative may discourage an individual from making a complaint.
- Any YIW employee with any knowledge of a violation of the Policy must report the incident to the Rabbi, President and/or Investigations Committee, even if the complainant of such discrimination or harassment is not interested in filing a formal complaint.
- YIW will respond to all complaints promptly, thoroughly and impartially.
- YIW may take reasonable and prudent interim measures to protect the parties involved and the YIW community.
- Complaints of discrimination or harassment will be overseen by the Investigations Committee, and an impartial investigation will be commenced upon receipt of a complaint or upon receiving information that YIW determines on its own warrants further investigation.
- All employees of YIW must cooperate with investigations or be subject to disciplinary action. Members of the YIW community are encouraged to cooperate with investigations.
- Retaliation is prohibited against anyone who in good faith filed and/or participated in the investigation of a complaint, even if the complaint is unsubstantiated. Those who knowingly make a false report will be subject to serious ramifications and/or disciplinary action (if employed by YIW).

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I. POLICY STATEMENT

The Young Israel of Woodmere is committed to maintaining a religious and communal environment in which all individuals are treated with respect and dignity. Everyone at YIW has the right to attend services, participate in programming, work and learn in an environment that is free of discrimination, harassment and abuse. Thus, this Policy prohibits discriminatory practices, harassment and abuse of any kind. Where there is reasonable cause to suspect that discrimination or harassment has occurred, YIW will act promptly to stop the discrimination or harassment, prevent its recurrence, and discipline and/or take other appropriate action against those responsible.

Equal Employment Opportunity

Subject to legitimate religious bona fide occupational qualification and other relevant exceptions, it is the policy of YIW to ensure equal employment opportunity without discrimination or harassment on the bases of race, religion, color, creed, age, national origin or ancestry, sex, marital status, physical or mental disability, veteran or disabled veteran status, genetic predisposition/carrier status, sexual orientation, gender identity, citizenship status or any other characteristic protected by any applicable law, ordinance or regulation. YIW prohibits and will not tolerate any such discrimination or harassment.

To Whom Applicable

This Policy applies to all YIW employees, contract service providers, members, visitors, attendees, and volunteers (hereinafter collectively, "*The Young Israel of Woodmere covered individuals*"), and covers their treatment of each other as well as others with whom they come into contact at YIW and/or at YIW-sponsored and affiliated activities and events. YIW's disciplinary authority may not extend to third parties who are not members or employees of YIW; however, a complaint that such a person engaged in a violation of this Policy will be investigated in accordance with this Policy as will a complaint made to YIW by a third party if such complaint is connected to YIW's programs or activities.

With regard to discrimination and harassment as herein defined, this Policy supersedes any and all prior YIW procedures and policies, if any.

Where Applicable

This Policy is intended to protect all aforementioned people and applies to conduct that occurs on YIW premises and/or at YIW-sponsored and affiliated activities and events, whether on YIW premises or at other locations, including, but not limited to, off-site educational events, youth department events, overnight trips, sporting events and practices, and to all forms/uses of technology by all individuals covered by this Policy. YIW may also address off-premises behavior that occurs other than at YIW-sponsored or affiliated events if it determines that the behavior, or the continued presence of the accused perpetrator, impairs, obstructs, substantially interferes with or adversely affects the services, activities, mission, processes or functions of YIW. Discrimination or harassment in any form (including sexual

harassment and sexual abuse/assault) is a violation of this Policy and will be dealt with seriously, promptly and thoroughly.

II. DEFINITIONS

Unlawful Discrimination or Harassment

Unlawful discrimination or harassment includes discrimination or harassment based on race, religion, color, creed, age, national origin or ancestry, sex, marital status, physical or mental disability, veteran or disabled veteran status, genetic predisposition/carrier status, sexual orientation, gender identity, citizenship status or any other characteristic protected by any applicable law, ordinance, or regulation.

This Policy prohibits discrimination against or harassment of any individual based upon that individual's membership in a protected class, regardless of whether it rises to the level of unlawful discrimination or harassment. In addition, this Policy protects all others listed in "To Whom Applicable" above, even if they are not members of a protected class, such as when one is discriminated against or harassed based on an inaccurate assumption that such person is a member of a protected class.

Examples of conduct that may violate this Policy include the use of epithets, slurs, jokes, stereotyping, or intimidating or hostile acts directed at any individual because of his/her protected class status. Harassment does not have to include intent to harm or be directed at a specific target. Prohibited harassment may involve a single episode or ongoing behavior depending on the severity of the issue. Further, this Policy forbids not only verbal harassment but harassment in any medium, including email and electronic social media.

Discrimination and harassment can take many forms. Prohibited conduct includes, but is not limited to, behaviors commonly recognized as sexual harassment, sexual abuse/assault, other physical violence, threatening behavior and stalking. All these behaviors are prohibited regardless of the relationship or gender of the parties involved.

Sexual Harassment

Sexual harassment refers to any *unwelcome* or *unwanted* sexual advances, requests for sexual favors, or other verbal, physical, demonstrative, or electronic conduct or communication of a sexual nature when:

- 1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or religious/educational experience; or
- 2) Submission or rejection of such conduct is used as the basis for a decision regarding an employment or other YIW-related activity affecting such individual; or
- 3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work or participation in a YIW program, service or activity; or
- 4) Such conduct has the purpose or effect of creating an intimidating, hostile, or offensive YIW-related environment.

Sexual harassment under this Policy may occur in a single incident or consist of a series of incidents. It can occur between any two people covered by this Policy, including, but not limited to, a group and an individual, people of the same or different gender, or people of the same or unequal status or power.

Examples of conduct which may constitute sexual harassment include, but are not limited to: verbal comments of an overtly sexual nature, whether in the form of jokes, innuendoes, slurs, or other statements; the use of comments of a sexual nature not relevant to the material being taught or any other legitimate purpose; remarks of a sexual nature about an individual's clothing or body; remarks speculating about an individual's sexual orientation, activity or previous sexual experiences; verbal harassment or abuse of a sexual nature; making offensive gender-based remarks; the display or transmission of sexually offensive objects, photographs, drawings, graffiti, email, electronic social media communications, computer graphics or programs when sexual content is not relevant to any legitimate purpose; non-verbal behaviors of a sexually degrading or offensive nature, such as gesturing, or leering; unwanted touching, hugging, or brushing against an individual's body; requests, demands or persistent pressure for sexual favors, particularly when accompanied by an offer of rewards or threats of retaliation; and sexual abuse/assault ("*sexual violence*").

Sexual Abuse/Assault ("*Sexual Violence*")

Sexual violence refers to physical contact with a sexual or intimate part of the body *without consent*. It includes various forms of sexual intercourse (e.g., rape, incest, statutory rape) as well as other forms of sexual touching (e.g., fondling, inappropriate kissing).

- Sexual or intimate body parts include, but are not limited to: breasts, buttocks, genitals, the groin area, and upper thighs.
- Lack of Consent occurs when one is physically forced or verbally intimidated into doing something sexual or submitting to a sexual act, or when one has explicitly indicated a lack of consent, or when the circumstances make it obvious that consent has not been given.
- Circumstances that make it obvious that consent has not been given include, but are not limited to: (1) being too intoxicated to say "no" or resist, (2) being asleep and therefore unable to consent, (3) where the act is concealed or unknown to the individual but violates such person's expectation of privacy or (4) situations in which someone is deemed to be physically or mentally incapable of giving valid consent whether due to the use of intoxicants or any other reason (e.g., intellectual or other disability).
- Children under 17 years of age cannot legally consent under New York State Law to having sex or sexual contact with an adult (i.e., someone who is 17 years of age or older). **Any sexual contact in New York between a child under 17 and an adult is a crime, and any such illegal behavior at YIW and/or governed by this policy will be reported to an appropriate law enforcement agency. Reports of such behavior should also be made directly to the Nassau County Child Abuse Hotline at 800-342-3720 and/or by dialing 911. Other jurisdictions may have different standards, and any illegal behavior in such jurisdiction also will be reported to the appropriate law enforcement agency.**

Stalking

Stalking refers to engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his/her own safety or the safety of others, or to suffer substantial emotional distress (i.e., significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling). Such a course of conduct means two or more acts, including, but not limited to, any actions directed at another person, whether done directly, indirectly or through others, via the telephone, electronic devices or any other means of communication, to follow, monitor, observe, surveil, threaten, or communicate to or about a person or interfere with the person's property.

Examples of conduct that may constitute prohibited stalking include, but are not limited to: unwelcome/unwanted communications of any type, including face-to-face, telephone calls, voice messages, e-mail, text messages, postings, written letters or notes and unwanted gifts; use of threatening words or conduct; pursuing or following; observing and/or surveillance; trespassing or vandalism; entering or remaining on or near a person's property, residence, place of employment or any other location where the person is present; interfering with or damaging a person's property, including pets; and engaging in other unwelcome contact.

III. RELIGIOUS ACTIVITIES

This Policy is intended to protect covered persons from discrimination and harassment, not to override religious activities or halachic requirements pertaining to the services or activities of the synagogue. Notwithstanding the forgoing, nothing set forth herein is intended to protect speech or conduct that violates federal, state or local anti-discrimination laws, or this Policy. In the event of a conflict between religious activities or halachic requirements and this policy, the Investigative Committee shall address such conflict in consultation with rabbinic and/or other appropriate advisors, as deemed necessary.

IV. COMPLAINT REPORTING PROCEDURES & GUIDELINES

Anyone who has reasonable cause to suspect that a violation of this Policy has occurred may make a complaint pursuant to this Policy. Complaints may be reported by the victim/complainant or by anyone else who has knowledge of a violation of this Policy. Anyone who wishes to initiate a complaint regarding a violation of this Policy may do so by contacting any of the following:

- 1) Rabbi Hershel Billet at RabbiBillet@yiwoodmere.org
(or an official YIW Associate Rabbi or Assistant Rabbi)
- 2) YIW President at yiw_president@yiwoodmere.org
- 3) YIW Investigations Committee at yiwabuseprevention@gmail.com

There is no time limit on when a complaint of discrimination or harassment can be made to YIW, however, YIW's ability to investigate and respond may be affected by any time delay in reporting. Therefore, the YIW strongly encourages a victim/complainant to file complaints promptly. Prompt reporting will serve to enhance YIW's ability to investigate effectively and to preserve important evidence and to promptly ensure the safety and wellbeing of the YIW community.

In the case of an anonymous report, such complaint will be investigated to the extent possible, however, all anonymous reporters should be aware that reporting anonymously might affect YIW's ability to investigate and respond effectively.

No YIW employee may discourage an individual from reporting. Any YIW employee with any knowledge, whether from firsthand observation, having been confided in or having heard about it in some other fashion, of a violation of this Policy *must* report the incident per this Policy, even if the actual victim of such discrimination or harassment is not interested in filing a formal complaint. YIW employees who are serving in a privileged professional capacity, as defined by applicable New York State or other applicable law, are not so obligated, unless required by law to report instances of child abuse. No YIW employee is authorized to investigate or resolve a suspected violation of this Policy without the involvement and consent of the YIW Investigations Committee.

Anyone who has been the victim of sexual violence is encouraged to initiate a complaint with the local police department as well as with YIW. Should an individual decide to file a complaint with the police, YIW will use best efforts to support such process. The YIW urges those who have been the victims of sexual violence to report these crimes to both the police and YIW. Regardless of whether such person wants to make a complaint to either the YIW or the local police, he/she should promptly seek medical and/or psychological attention both to address his/her own health and to collect potential evidence should he/she later decide to file charges or obtain a protective order.

YIW and the police/legal system work independently from one another. Because the standards for finding a violation of criminal law are different from the standards in this Policy, criminal investigations or reports are not solely determinative of whether or not sexual violence under this Policy has occurred. Accordingly, YIW generally will not delay its investigation of a complaint and will conduct its investigation simultaneously with any police/legal system investigation. **Should YIW determine that there is reason to believe a crime has been committed, YIW shall report such information to the appropriate authorities so such authorities may investigate and take appropriate action.**

YIW's first and foremost concern for anyone who has been the victim of an incident of sexual violence is his or her physical safety. **Thus, if anyone who has been a victim of such unlawful behavior is feeling physically unsafe, he/she should immediately call the local police precinct at 516-573-6400, Nassau County District Attorney at 516-571-3800 or 911 for assistance.**

V. GUIDING PRINCIPLES

Following a report of an incident to YIW per this Policy, the complainant will be immediately advised of YIW's discrimination/harassment policies and procedures, as described herein.

YIW will address all complaints according to the following guiding principles, which are intended to protect the rights of all individuals concerned equally and fairly:

- 1) Every effort will be made, consistent with the need to discharge YIW's legal responsibilities, to respect the wishes of the complainant regarding further investigation. A complaint will not be pursued without the complainant's authorization, unless the YIW is legally obligated to do so or, in its judgment, the allegations are serious enough to warrant further action.
- 2) Complainants are strongly encouraged to file a complaint promptly after the alleged incident in recognition of the fact that as time goes by, an investigation becomes more difficult. Memories may become unreliable, and information and witnesses may become unavailable. Promptness in filing complaints is therefore strongly encouraged, as it may be essential for a thorough and fair resolution.

- 3) Any attempt to penalize a complainant or any other person who reports an incident of discrimination or harassment for initiating a good faith complaint through any form of retaliation is strictly prohibited, and any party found to have engaged in retaliation will be subjected to disciplinary action up to and including termination (if an employee) or being barred from YIW premises. However, where a complaint is determined to have been filed in bad faith and/or on a knowingly false basis, such action may be the basis for appropriate disciplinary action against the complainant.

YIW will respond to all reported complaints promptly, thoroughly and impartially.

VI. INTERIM MEASURES

YIW may take reasonable and prudent interim measures to protect the complainant, the reporter (if different than the complainant), the respondent (i.e., the person against whom a report has been filed), and all third party witnesses pending resolution of the complaint and/or police or law enforcement investigation, including but not limited to, restrictions on contact, bans from YIW premises and events, and, in extreme situations, loss of membership and/or employment. YIW also will consider the safety of all others in the YIW community when making decisions regarding appropriate interim measures. All parties to a complaint will be informed of any interim measures taken by YIW.

VII. INVESTIGATION OF REPORTED INCIDENTS

The YIW Investigations Committee will oversee complaints of discrimination or harassment, including sexual violence complaints. Upon receipt of a complaint or upon receiving information that there exists reasonable cause to suspect that a violation of this Policy has occurred, the YIW Investigations Committee shall determine if there is sufficient information to reasonably believe that a crime has or is likely to have occurred. In such instance, the YIW Investigations Committee, or duly authorized representative thereof, shall notify the appropriate authorities and fully cooperate with their investigation. Should the YIW Investigations Committee determine that an investigation is warranted to determine if a reportable crime has occurred or because insufficient information has been gathered for an initial communication with the authorities, an impartial investigation will commence in accordance with the procedures set forth in this Policy. This investigation may be conducted by the Investigations Committee or the Committee may, in their sole discretion, retain experts and/or advisors to do so (for purposes of this Policy, upon approval of this Policy by the YIW Board of Directors, the Board hereby authorizes the YIW Investigations Committee, with the prior approval of the President, to retain and compensate experts necessary to facilitate their responsibilities under this Policy). Depending on the nature of the allegations, the investigation may include interviews with the complainant and respondent, interviews of witnesses, collection of documentation, including email and other communications relevant to the complaint, a review of documents or any other steps deemed important by the investigator in order to thoroughly and fairly conduct the investigation. Each of the complainant and respondent may, in the discretion of the investigator, be given an opportunity to present relevant witnesses and other evidence as part of the investigation. **For purposes of full clarity, it is preferred under this Policy for the Committee to refer matters to the authorities since the authorities are trained and expert in investigating such matters. Only if further information is deemed required prior to such report to the authorities – or to determine if such a report is warranted – shall the Committee initiate its own initial investigation. In the event of a police and/or law enforcement investigation, YIW shall defer to such authorities/investigation while taking appropriate steps to ensure the safety and wellbeing of the complainant and synagogue community pending such police and/or law enforcement investigation.**

VIII. DUTY TO COOPERATE IN INVESTIGATIONS

All relevant members of the YIW community are encouraged to cooperate with investigations of prohibited discrimination or harassment. Any YIW employee who has relevant information, but refuses to cooperate after being asked to do so during an investigation, may be subject to disciplinary action. Notwithstanding the foregoing, in no event will a complainant or alleged perpetrator be compelled to participate in the investigation.

IX. CONFIDENTIALITY

Information gathered during the investigation process will be handled by YIW with due diligence and care. Discreet inquiry, corrective counseling, and trust will be stressed by YIW in dealing with all complaints. Records and information concerning complaints will be kept confidential to the greatest extent possible, and YIW will comply with all applicable laws in maintaining the confidentiality of the investigation. However, subject to applicable laws, YIW cannot guarantee complete confidentiality where it would conflict with YIW's obligations to ensure a safe and non-discriminatory and harassment-free environment. For example, under conditions of potential imminent harm to the community, YIW may be required to inform the community of the occurrence of an incident of sexual violence. In addition, consistent with law, information regarding violations of this Policy may be shared among YIW personnel as appropriate and necessary.

Complainant Request for Confidentiality

At any point a complainant may request confidentiality. This type of request means that the complainant does not want his/her name or other identifiable information revealed to the respondent and witnesses. If the complainant makes such a request, YIW will attempt to take all reasonable action to comply with it. However, because YIW's ability to investigate and respond to the allegations may be limited upon such a request for confidentiality, YIW may be required by applicable laws or ethical obligations to its members and constituents to weigh the complainant's request for confidentiality with YIW's commitment to provide a safe and non-discriminatory and harassment-free environment, and the complainant will be so informed. If the complainant continues to request that his/her name and other identifiable information not be revealed to the respondent and/or other witnesses, YIW will proceed to evaluate the request as follows: it will consider the seriousness of the alleged misconduct, the complainant's age, whether there have been other complaints of misconduct against the respondent, the respondent's right to receive information about the allegations if the information is maintained by the YIW, and the applicability of laws mandating disclosure. The Committee will notify the complainant if YIW cannot maintain the complainant's confidentiality. In all instances, YIW will endeavor to reveal the complainant's identity only to those individuals who need to know it in order for an investigation to commence or continue (as applicable).

If YIW cannot take disciplinary action against the alleged perpetrator because the complainant has insisted on non-disclosure of his/her name and other identifiable information and YIW has decided that it can comply with this request, YIW will still pursue other steps to limit the effects of the alleged discrimination/harassment and prevent its recurrence.

X. RETALIATION

This Policy prohibits retaliation against any individual who in good faith filed and/or participated in the investigation of a complaint, even if the complaint is unsubstantiated. Retaliation includes threats, intimidation, reprisals, harassment, and/or any other adverse action threatened, expressly or impliedly, or

taken against anyone who reports a violation or suspected violation of this Policy or who participates in an investigation of a complaint. Such prohibited retaliation may take place in person, over the telephone or through electronic or social media means. Regardless of how it manifests itself, retaliation is prohibited. The YIW will take all reasonable action to protect individuals from retaliation. Violations of this prohibition will be addressed through this Policy and/or other YIW disciplinary procedures, as deemed appropriate in YIW's discretion.

XI. KNOWING FALSE CLAIMS OR INFORMATION

YIW considers any allegation of discrimination or harassment a serious matter and encourages individuals to report all incidents of discrimination or harassment to YIW as more fully described herein. All good faith reports will be treated with the seriousness that they deserve. However, as false claims of discrimination or harassment can have a serious effect on one's reputation, any individual who *knowingly* files a false allegation of discrimination or harassment, or who *knowingly* provides false information during an investigation or proceeding under this Policy, may be subject to appropriate disciplinary action, leading up to and including expulsion from the synagogue and/or termination of employment for employees.

XII. REMEDIES

In addition to any disciplinary action taken against a respondent, if sexual harassment that creates a hostile environment has occurred, YIW will take immediate action (or as soon as practicable under the circumstances) to eliminate the hostile environment, prevent its recurrence, and address its effects on the complainant and others, as appropriate.

As set forth above, it is preferred under this Policy for the Investigative Committee to refer matters to the appropriate authorities where there is reason to believe a crime may have been committed since the authorities are trained and expert in investigating such matters. Only if further information is deemed required prior to such report to the authorities – or to determine if such a report is warranted – shall the Committee initiate its own initial investigation.

YIW RESERVES THE RIGHT, IN ITS SOLE AND ABSOLUTE DISCRETION, TO REMOVE OR BAR ANY INDIVIDUAL FROM YIW PREMISES OR PROGRAMS IF YIW DETERMINES, IN ITS SOLE AND ABSOLUTE DISCRETION, THAT A VIOLATION OF THIS POLICY AND/OR SAFETY RISK HAS OCCURRED OR MAY OCCUR. MEMBERSHIP IN AND ATTENDANCE AT YIW IS A PRIVILEGE, NOT A RIGHT.

XIII. EDUCATION/TRAINING/POLICIES

As part of YIW's commitment to providing a safe and non-discriminatory and harassment-free environment, this Policy shall be disseminated widely to the YIW community through publications, websites, training programs and other appropriate channels of communication. YIW will also mandate unlawful harassment training programs for YIW employees to promote awareness and a safe and respectful YIW environment. YIW shall also ensure that appropriate supplemental policies are established to support the intent of this Policy.

XIV. RE-EVALUATION

YIW reserves the right to modify and/or amend any or all of the terms and/or procedures outlined herein at any time, in its sole discretion. In the event YIW determines that circumstances warrant modification or amendment of this Policy, timely notice of the same will be communicated, if practicable. This Policy is

made available to the entire YIW community, as well as all interested others, and can be accessed via the YIW website at www.yiwoodmere.org or from the YIW office.

Updated: April 2015

Appendix A

Available or Suggested Resources

- Nassau County Police Department, 4th Precinct – 516-573-6400
- Nassau County District Attorney – 516-571-3800
- Nassau County Child Protective Services (Abuse Hotline) – 800-342-3720